

trust, see Estates and Trusts, §§ 14-303 through 14-308.

5-403. DISTRIBUTIONS.

FOR EACH TAXABLE YEAR, A PRIVATE FOUNDATION SHALL DISTRIBUTE FOR THE PURPOSES SPECIFIED IN ITS CHARTER AMOUNTS SUFFICIENT TO AVOID TAX LIABILITY UNDER §4942(A) OF THE FEDERAL INTERNAL REVENUE CODE.

REVISOR'S NOTE: This section presently appears as Art. 23, §446.

The term "charter," which is defined in Title 1 of this article, is substituted for "articles of organization" to include expressly any articles of amendment or other changes to the original organizational document. This is in keeping with the intent and meaning of the applicable Internal Revenue Code provisions as well as that Code's usage of "governing instrument."

The only other changes are in style.

5-404. EFFECT OF JUDICIAL DETERMINATION.

THE PROVISIONS OF §§ 5-402 AND 5-403 OF THIS SUBTITLE DO NOT APPLY TO ANY PRIVATE FOUNDATION TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION, UNDER A JUDICIAL PROCEEDING BEGUN BY THE PRIVATE FOUNDATION BEFORE JANUARY 1, 1972, DETERMINES THAT:

(1) THE APPLICATION OF THESE SECTIONS IS CONTRARY TO THE TERMS OF THE CHARTER OR OTHER INSTRUMENT GOVERNING THE PRIVATE FOUNDATION OR THE ADMINISTRATION OF CHARITABLE FUNDS HELD BY IT; AND

(2) THE CHARTER OR OTHER GOVERNING INSTRUMENT MAY NOT PROPERLY BE CHANGED TO CONFORM TO THESE SECTIONS.

REVISOR'S NOTE: This section presently appears as Art. 23, §447.

The term "charter" is substituted for "articles of organization"; in this regard, see the revisor's note to §5-403.

The only other changes are in style.

The exception expressed in this section stems from the comparable exception in §508(e)(2)(c) of the Internal Revenue Code. It should be noted, however, that, for federal tax